



# RULE-MAKING ORDER

**CR-103P (May 2009)**  
(Implements RCW 34.05.360)

**Agency:**

*Environmental Hearings Office for the following boards: Pollution Control Hearings Board, Shoreline Hearings Board, Environmental and Land Use Hearings Board, Forest Practices Appeals Board and Hydraulics Appeals Board.*

**Permanent Rule Only**

**Effective date of rule:**

**Permanent Rules**

☒ 31 days after filing.

☐ Other (specify) \_\_\_\_\_ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

☐ Yes ☒ No If Yes, explain:

**Purpose:** *The purpose of these changes is to comply with 2010 Wash. Laws Chs. 7, 84, 130, 210 and 285. 2010 Wash. Laws Ch. 210 eliminates the HAB and the FPAB, and transfers the administrative review functions of these boards to the PCHB. 2010 Wash. Laws Ch. 7 eliminates the ELUHB. To comply with these statutory changes, all of the HAB and ELUHB procedural rules are proposed for repeal. All of the FPAB rules, with the exception of WAC 223-08-087, the FPAB rule on temporary suspensions or discontinuances, are proposed for repeal. WAC 223-08-087 will remain in effect, and will be used by the PCHB when hearing forest practices appeals, until such time as a superseding temporary suspension or discontinuance rule is adopted for forest practices appeals before the PCHB. See 2010 Wash. Laws Ch. 210 §42 (2). 2010 Wash. Laws Ch. 210 also changes the time frames for filing appeals from certain actions of various agencies, therefore necessitating changes in the procedural rules of the PCHB and SHB to conform with these statutory changes. 2010 Wash. Laws Ch. 210 also directs that appeals of listed decisions made by the Department of Natural Resources, the Department of Fish and Wildlife, the Department of Ecology, the Commissioner of Public Lands, and decisions made by state agencies that are authorized public entities under RCW 79.100.010 pertaining to derelict vessels, be filed with and reviewed by the PCHB. Additional changes include making the PCHB and SHB rules consistent with 2010 Wash Laws Ch. 210 pertaining to mediations, and adding a requirement regarding submissions of subpoenas for signature to the Board's presiding officer at least 10 days before the hearing.*

**Reasons supporting proposal:** *All of these changes are necessary to implement 2010 Wash Laws Chs 7, 84, 130, 210, and 285, with the exception of the addition of the 10 day requirement for submission of subpoenas. The addition of a time period for submission of subpoenas for signature prior to the hearing will facilitate the return of subpoenas to the requesting party sufficiently in advance of the hearing to allow time for the requesting party to serve the subpoena.*

**Citation of existing rules affected by this order:**

Repealed: *Forest Practices Appeals Board (FPAB) procedural rules WAC Chs. 223-08, 223-09 and 223-12, with the exception of WAC 223-08-087; also repealing Hydraulics Appeals Board (HAB) procedural rules WAC Ch. 259-04, and the Environmental and Land Use Hearings Board (ELUHB) procedural rules WAC Ch. 199-08.*

Amended: *(PCHB) procedural rules WAC 371-08-315, 371-08-335, 371-08-395, 371-08-400, 371-08-555 and Shoreline Hearings Board (SHB) procedural rules WAC 461-08-305, 461-08-340, 461-08-345, 461-08-415, 461-08-420, and 461-08-570*

**Statutory authority for adoption:** *RCW 43.21B.170; RCW 90.58.175, 2010 Wash. Laws Chs. 84, 130, 210 and 285.*

**Other authority :**

**PERMANENT RULE (Including Expedited Rule Making)**

*Adopted under notice filed as WSR 10-13-173 on June 23, 2010.*

Describe any changes other than editing from proposed to adopted version:

**No change**

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting: **Not applicable**

Name:  
Address:

phone (    ) \_\_\_\_\_  
fax    (    ) \_\_\_\_\_  
e-mail \_\_\_\_\_

**Date adopted:** *August 23, 2010*

**NAME (TYPE OR PRINT)**  
*Andrea McNamara Doyle*

**SIGNATURE** *Andrea McNamara Doyle*

**TITLE**  
Director of the Environmental Hearings Office  
Chair of the Pollution Control Hearings Board and Shorelines Hearings Board

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE:** *August 23, 2010*  
**TIME:** *3:08 PM*

**WSR 10-18-021**

**(COMPLETE REVERSE SIDE)**

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

<b>Federal statute:</b>	New	_____	Amended	_____	Repealed	_____
<b>Federal rules or standards:</b>	New	_____	Amended	_____	Repealed	_____
<b>Recently enacted state statutes:</b>	New	_____	Amended	<u>1</u>	Repealed	_____

**The number of sections adopted at the request of a nongovernmental entity:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted in the agency's own initiative:**

New	_____	Amended	<u>1</u>	Repealed	_____
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	_____	Amended	<u>1</u>	Repealed	_____
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**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Pilot rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Other alternative rule making:</b>	New	_____	Amended	_____	Repealed	_____